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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,430	09/16/2003	Heiko Schneider	OST-031143	1558

22876 7590 07/07/2004

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EXAMINER	
GRAVINI, STEPHEN MICHAEL	

ART UNIT	PAPER NUMBER
3749	

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/663,430	SCHNEIDER, HEIKO
	Examiner	Art Unit
	Stephen Gravini	3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *16 September 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20030916*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 and claim 6 recite the broad recitation drier for objections, and those claims also recite particularly for vehicle bodies which is the narrower statement of the range/limitation.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independently claimed invention and claims

depending are considered indefinite because a narrower limitation is recited within a broader limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe et al. (US 5,868,562). Watanabe is considered to disclose a drier for objects or method thereof comprising:

a housing **1**, comprising a drying chamber capable of accommodating objects **2** to be dried;

a connection **4** for intake air;

a connection **6a, 6b,** or **6c** for exhaust air;

at least one catalytic radiator **12** which, in turn, comprises:

at least one connection **b** (fig 5) for combustion gas;

a catalytically active layer **RA'** (fig **5**) to which the combustion gas is supplied;

at least one connection **9a** or **9b** (fig **5**) for combustion air, connected to the catalytically active layer via an air duct;

characterized in that

the connection of the drier for intake air is connected exclusively to the connection of the catalytic radiator for combustion air, in such a way that, apart from unavoidable leakages of the housing, all the intake air is routed as combustion air via the catalytic radiator (please see column 5 line 27 through column 6 line 54); and

the catalytic radiator is of heat resistant design, such that it does not require air cooling (please see column 7 line 45 through column 8 line 35 wherein the disclosed insulating material implies the claimed cooling feature because in both cases the insulating material provides the patentably functional equivalent result to the claimed cooling) or alternatively;

the objects **2** to be dried are brought into a drying chamber **1** in the housing of the drier;

in the drying chamber, the objects to be dried are exposed to a catalytic radiator **12** to whose catalytically active layer combustion gas **RA'** (fig **5**) and combustion air **9a** or **9b** (fig **5**) are supplied; and

intake air is continuously supplied to, and air continuously extracted from, the drying chamber (column 3 lines 59-65);

characterized in that

all the intake air supplied to the drying chamber, apart from unavoidable leakages of the housing of the drier, is routed as combustion air via the catalytically active layer of the catalytic radiator (please see column 5 line 27 through column 6 line 54); and

a catalytic radiator is used which is of heat resistant design, such that it does not require cooling (please see column 7 line 45 through column 8 line 35 wherein the disclosed insulating material implies the claimed cooling feature because in both cases the insulating material provides the patentably functional equivalent result to the claimed cooling). Watanabe is also considered to disclose the claimed catalytic radiator exclusive air intake **9a** or **9b** (fig **5**), premixer **21**, blower **Fe**, upstream and downstream stage (column 4 lin3 51 through column 5 line 26), air intake portion combustion gas mixture prior to catalytic radiator entry (column 5 lines 27-48), exhaust air extraction intake downstream air supply (column 5 lines 49-65), convection heating (column 6 lines 10-33), and variable convective and radiative heating (column 4 line 61 through column 5 line 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Best et al. (US 5,594,999). Watanabe is considered to disclose the claimed invention, as discussed above in the anticipatory rejection, except for the express teaching of infrared radiation exposure. Best is considered to expressly disclose the claimed feature of infrared radiation exposure at column 2 lines 21-39. It would have been obvious to one skilled in the art to combine the teachings of primary reference Watanabe with the claimed infrared radiation exposure found under the expressed teachings of secondary reference Best for the purpose of providing a radiative heating medium for drying objects.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smg
July 1, 2004